IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CIVIL REVISION APPLICATION No 1148 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KANCHANBEN SURAJMAL MINDA
Versus
BHAKTIPRASAD MAHURDAS MUKHIYAJI

Appearance:
NOTICE SERVED for the Petitioner.
MR RN SHAH for the Respondent.

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/03/2004

ORAL JUDGEMENT

The Advocate engaged by the petitioner was subsequently elevated as a Judge of this Court. Even though, notice was served on the petitioner, as per the office endorsement, nobody has filed vakalatnama for the petitioner nor has the petitioner appeared in this matter.

The petitioner is the original plaintiff of Regular Civil Suit No.77 of 1985. In the aforesaid suit, on behalf of the petitioner, an application was submitted

for interim injunction and the same was granted by the trial Judge. The present respondent herein, thereafter, preferred an appeal, being Miscellaneous Civil Appeal No.27 of 1988, before the appellate court. The said appeal was allowed and the order of the trial court below Exhibit 5, granting injunction in favour of the plaintiff, was set aside by the appellate court. The original plaintiff has, therefore, filed this Civil Revision Application under Section 115 of the Code of Civil Procedure.

Considering the nature of the order, it is clear that the same is at an interlocutory stage in view of the fact that the proceedings arise out of the interim injunction application. In view of the amendment in Section 115 of the Code of Civil Procedure, this CRA is not maintainable. This CRA is accordingly rejected as not maintainable. Interim relief stands vacated. No costs.

It will be open for the petitioner to challenge the impugned order of the appellate court by filing a Special Civil Application under Article 227 of the Constitution of India, if the petitioner so desires.

9th March, 2004 (P.B. Majmudar, J.)

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(apj)